

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Northern District of California

SEAL  
BY COURT ORDER

JCS

United States of America

v.

NAUM MORGOVSKY

Case No.

3 16 7 1094

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 20, 2009 in the county of San Mateo in the  
Northern District of California, the defendant(s) violated:

Code Section

18 U.S.C. § 1344 &amp; 2

Offense Description

Bank Fraud

FILED

AUG 24 2016

SUSAN Y. SOONG  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

This criminal complaint is based on these facts:

See Attachment 1

☒ Continued on the attached sheet.


Complainant's signature

Natalie S. Rezai-sadeh, Special Agent, FBI

Printed name and title

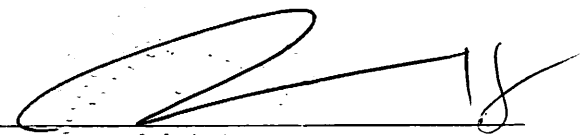
Sworn to before me and signed in my presence.

Date:

8/24/16

City and state:

San Francisco, California



Judge's signature

Joseph C. Spero, Chief U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF**  
**CRIMINAL COMPLAINT**

I, Natalie S. Rezai-zadeh, a Special Agent with the Federal Bureau of Investigation in Palo Alto, California, being duly sworn, depose and state as follows:

**Introduction**

1. There is probable cause to believe that NAUM MORGOVSKY executed and attempted to execute a scheme and artifice to defraud a federally insured financial institution, in violation of 18 U.S.C. §§ 1344 and 2. Specifically, as set forth in detail below, MORGOVSKY used the name Gary Piper as a straw purchaser in the short sale of two condominiums in Hawaii for the benefit of his associate, Mark Migdal. Migdal owned the properties and owed substantial sums to federally-insured lenders on the mortgages for each property. Using the name Gary Piper, MORGOVSKY purchased the properties in short sales in 2009 and 2010. After the sales, the properties remained under Migdal's control. In 2016, MORGOVSKY transferred the properties to Migdal's wife, using her maiden name, for the same amounts he paid to purchase the properties in the short sales. Four months later, Migdal's wife transferred the properties to a Migdal family trust. As a result, the two victim mortgage lenders lost approximately \$430,491.

2. Although the properties in question are in Hawaii, both MORGOVSKY and Migdal resided in the Northern District of California throughout the relevant time and used banking facilities in the Northern District of California to effectuate the fraud.

**Affiant Background**

3. I am employed as a Special Agent with the Federal Bureau of Investigation (FBI), and have been since September 2006. I am currently assigned to the San Francisco Division, Palo Alto Resident Agency, in Palo Alto, California. I am a law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), and am authorized by law to conduct investigations and make arrests for felony offenses.

4. As a Special Agent with the FBI, I investigate violations of federal criminal law, including matters related to violations of the Arms Export Control Act, theft of trade secrets, economic espionage, fraud, and conspiracy. I have experience in seeking, obtaining and executing search warrants

1 and have assisted with several arrest warrants.

2 5. Through my training, experience, and discussions with other FBI employees specialized  
3 in bank fraud and forfeiture matters, I have become familiar with identifying financial transactions  
4 which constitute bank fraud violations.

5 Information Regarding Morgovsky

6 6. NAUM MORGOVSKY, a naturalized United States citizen, is President of Hitek  
7 International (Hitek), a company specializing in night vision devices. NAUM MORGOVSKY is also an  
8 owner of a Russia-based night vision company, Infratech. NAUM MORGOVSKY'S wife, IRINA  
9 MORGOVSKY is the treasurer for Hitek and the owner of a night vision company called VisionTech.  
10 Hitek's address is 751 Laurel Street, #518, San Carlos, California. Surveillance shows that this is a UPS  
11 P.O. Box, and not a physical store front. The address associated with VisionTech is 3145 Geary  
12 Boulevard, No. 269, San Francisco, California, which surveillance shows is a rented mailbox located  
13 inside a UPS storefront. Neither Hitek nor VisionTech have a physical store front or a company website.  
14 The MORGOVSKYS reside in Hillsborough, California.

15 7. I began investigating NAUM MORGOVSKY and IRINA MORGOVSKY for the  
16 unlawful export of night vision equipment that is controlled for export pursuant to the United States  
17 Munitions List ("USML") and Commerce Control List ("CCL"). My investigation of those possible  
18 offenses is continuing. In the course of that investigation, I reviewed bank records and other records for  
19 MORGOVSKY and Hitek. I also learned, as discussed in more detail below, that MORGOVSKY  
20 obtained and uses the identity of an individual named Gary Piper, who died in 1969 at the age of 16.  
21 NAUM MORGOVSKY used the name Gary Piper for business transactions involving Hitek, opened  
22 bank accounts in the name of Gary Piper, obtained false identification documents using the name Gary  
23 Piper, and, as relevant here, used the name Gary Piper to engage in a short sale scheme with an associate  
24 named Mark Migdal.

25 8. This is not the first time NAUM MORGOVSKY has been involved in obtaining a false  
26 identification. In February of 2008 NAUM MORGOVSKY was arrested by Department of State  
27 Diplomatic Security Service and charged with passport fraud. NAUM MORGOVSKY used a passport  
28 the name of Joseph Fradel (a deceased individual) when returning to the United States from Moscow,

1 Russia. NAUM MOROGSKY admitted in an interview that he obtained a false ID in the name of  
2 Joseph Fradel from North Dakota. MORGOVSKY plead guilty to one count of violating 18 U.S.C.  
3 § 1028(a)(2) and was sentenced to 12 months of probation.

4 Morgovsky Uses The Name Gary Piper

5 9. NAUM MORGOVSKY obtained a North Dakota identification using the name of Gary  
6 Piper, date of birth, February 26, 1952 and social security number 234-80-6779. Records obtained from  
7 the North Dakota Driver's License Division show the identification is a Non Commercial Driver's  
8 License (NDL), number PIP523889. NAUM MORGOVSKY used the driver's license to open two bank  
9 accounts, purchase two condominium apartments in Hawaii, and travel via aircraft from Las Vegas to  
10 Los Angeles in 2016.

11 10. I have researched the identity of a person with the name Gary Piper, social security  
12 number 234-80-6779, and date of birth February 26, 1952. I learned from a death certificate obtained  
13 from the Maryland State Archives that such a person named Gary Piper with that social security number  
14 existed but died in a car accident in Washington County, Maryland on January 1, 1969, at the age of 16.

15 11. On or about April 3, 2014, I spoke to Joe Hora, Terminal Manager for International  
16 Transload Logistics (ITL) located in Wilmington, Illinois. Hora told me that Hitek International stored  
17 manufacturing equipment (i.e. milling machinery, grinders, machines to cut metal) in a warehouse  
18 belonging to ITL. Joe Hora mentioned that the equipment took up half of ITL's warehouse. Hitek was  
19 informed that they could not keep their equipment at ITL because ITL was not a storage facility. Hora  
20 stated that the equipment was eventually moved to another location, but could not recall where. Hora  
21 advised that ITL is an international freight transloader of imports and exports. Hora said that the  
22 individual he dealt with at Hitek International was Gary Piper. Hora described Gary Piper as a short  
23 Russian male with salt and pepper hair. Hora stated that Gary Piper would come in and use office space  
24 at ITL when he was visiting. Hora recalled that Gary Piper mentioned he manufactured scopes for  
25 rifles. Gary Piper's email address was [garywpiper@yahoo.com](mailto:garywpiper@yahoo.com) and the phone number for Gary Piper  
26 was 415-706-5404.

27 12. Telephone number 415-706-5404 is a phone number used by NAUM MORGOVSKY.  
28 Subscriber information obtained from AT&T identify the phone number as belonging to Patricia

Morgovsky, daughter of NAUM MORGOVSKY. NAUM MORGOVSKY received packages via DHL and this phone number was provided as his contact number. In addition, an associate of NAUM MORGOVSKY's named Serguei Sofine, has applied for a visa to return to the United States and on the past few visa applications, Serguei Sofine listed NAUM MORGOVSKY as his contact in the United States and provided the telephone number 415-706-5404 as the contact number for NAUM MORGOVSKY.

13. In June 2015 the FBI contacted Hora and provided him a photo of two individuals and asked Hora if he recognized them. Hora identified the individuals as Gary Piper and his wife. The photo the FBI provided Hora with was a picture from IRINA MORGOVSKY's Facebook page of NAUM MORGOVSKY and IRINA MORGOVSKY.

Morgovsky Has Had A Relationship With Mark Migdal Since At Least 2009

14. I have reviewed records obtained from Bank of America (BOA-6104) for an account in the name of Hitek International for the period 2009 to 2011. The account records showed multiple payments being made to an individual named Mark Migdal (Migdal). Migdal resides at 445 Golden Oak Drive, Portola Valley, California. Many of the payments in 2010 and 2011 took place bi-weekly in amount of \$3,027.88. In total, Migdal received \$25,000 in 2009 (from November–December), \$81,613.36 in 2010 and \$43,390.32 in 2011.

15. Migdal opened an account at US Bank (US Bank-9826) in the name of Infravision. I obtained records for this account and observed that it received a \$250,000 wire credit transfer from Gary Piper on March 17, 2011. Shortly thereafter, Infravision sent two wire transfers to the Hitek account BOA-6104 in the name of Nightsight/Hitek. The first wire was sent on March 23, 2011, in the amount of \$115,000, and the second wire was sent on March 30, 2011, in the amount of \$105,000. In addition, Migdal received the following six checks from Piper, issued from Chase Bank (Chase-4215):

Check Date	Check #	Amount	Payee	Memo
02/15/2010	9990	\$3,150	M.Migdal	Furniture
02/23/2010	9991	\$3000	Mark or David Migdal	Refund
03/01/2010	9993	\$5,950	EmmaCourt LLC or M. Migdal	Alex Ashkenaz

03/01/2010	9994	\$4,750	Curtner Project or M.Migdal	Alex Ashkenaz
03/31/2010	1004	\$4,500	Mark Migdal	Loan to Matadero
04/27/2010	1010	\$2,620	Mark Migdal	Re: Furniture

Using the Name Gary Piper, MORGOVSKY Opened and Funded an Account At Chase Bank

16. I have reviewed records from a JPMorganChase bank account (Chase-4215). The account was opened on February 9, 2010, in the name of Gary Piper, 530 Showers Dr, STE 7-119, Mountain View, CA. Bank records show that Piper provided tax ID # 234-80-6779 (which was the real Gary Piper's social security number), a North Dakota driver's license (ID # PIP-52-3889), and a major credit card from Bank of America (ending in 7219) to open the account. Records obtained from North Dakota Driver's License Division showed ID # PIP-52-3889 is a driver's license for Gary William Piper, 208 9<sup>th</sup> Ave SW, Fargo, ND. I have compared the photograph of "Gary Piper" from the North Dakota Driver's License in the Chase bank account records with MORGOVSKY'S California driver's license, and they are photographs of the same person.

17. The records from the Chase-4215 account show payments being made to Walaka Maui, County of Maui, and a UPS Store (for a P.O. Box renewal). Credits into the account were small cash deposits from Piper to maintain an account balance, and checks from Migdal. The checks from Migdal reference County of Maui tax and home owner's association payments and various Maui expenses for residences at 112 Walaka in Kihei, Maui, Hawaii.

Migdal Purchased Two Condominiums In Hawaii, Funded by Bank Mortgage Loans

18. Based on the bank records I reviewed, I conducted further investigation and identified two condominiums in Kihei, Hawaii, that were purchased by Migdal in 2006.

19. Property 1. According to the State of Hawaii Bureau of Conveyances Recorder's documents, the first condominium is located at 112 Walaka Street, #305, Kihei, Hawaii. This property was purchased by Migdal in October 30, 2006. The sale price for the property was \$521,500 and Migdal obtained a 30-year adjustable loan from Countrywide Home Loans in the amount of \$392,000,

1 and a second deed of trust from Countrywide Bank in the amount of \$49,000. The lender filed a Notice  
2 of Mortgagee's Intention to Foreclose Under Power of Sale for this property on July 20, 2009.

3 20. Property 2. According to the State of Hawaii Bureau of Conveyances Recorder's  
4 documents, the second condominium is located at 112 Walaka St., #404, Kihei, Hawaii. On or about  
5 November 3, 2006, Migdal purchased this property for a sales price of \$511,733. Migdal financed the  
6 purchase with first deed of trust from First Horizon Home Loan Corporation, 4000 Horizon way, Irvine,  
7 Texas in the amount of \$409,350 and a second deed of trust from First Horizon Home Loan Corporation  
8 in the amount \$51,000. On or about May 20, 2009, First Horizon Home Loan Corporation assigned the  
9 first deed of trust to Everhome Mortgage Company ("Everhome").

10 Using The Name Gary Piper, MORGOVSKY Bought The Two Condominiums In Short Sales

11 21. Migdal sold both properties to "Gary Piper" in short sales for amounts far less than what  
12 Migdal owed on the mortgages. A "short sale" is a sale of real estate in which the sale proceeds are less  
13 than the balance on the mortgage loan pertaining to the property. A short sale generally occurs when a  
14 borrower cannot pay the mortgage loan on the borrower's property and the property is worth less than  
15 the balance on the property's loan, but the borrower and mortgage lender decide that selling the property  
16 at a loss is better than foreclosure. A short sale must be approved by the mortgage lender.

17 22. Documents obtained from Everhome show that on or about July 20, 2009, a purchase  
18 contract was executed between Migdal (the seller) and Gary Piper (the buyer) for Property 2, 112  
19 Walaka St, #404, Kihei, HI. Mark Migdal and his wife Anetta Migdal submitted a hardship letter to  
20 Everhome Mortgage Company on or about June 4, 2009 detailing their current financial situation and  
21 asking the bank to approve a short sale which was submitted to Everhome by Migdal's Realtor. On or  
22 about August 24, 2009, Everhome Mortgage provided their approval for the pre-foreclosure sale at a  
23 sales price of \$228,000. On or about August 26, 2009, First Tennessee Bank also provided their  
24 approval for the sale. The property sold to Gary Piper in September of 2009 for \$228,000. The property  
25 was sold as a short sale and the loss to Everhome was approximately \$239,519.02. Everhome Mortgage  
26 Company is a division of Everbank, a federally insured lending institution.

27 23. On or about January 14, 2010 BAC Home Loan Servicing agreed to accept a short payoff  
28 for Property 1, 112 Walaka Street, #305, Kihei, HI. The letter stated (under section 2. on the form),

1 "The approved buyer(s) is/are Gary Piper and the sales price for the property is \$207,000." The  
2 principal outstanding balance for the initial loan (first deed of trust) for property 112 Walaka Street,  
3 #305, Kihei, HI was \$391,130.80 in January of 2010. The bank accepted the short sale price of  
4 \$207,000 and thus incurred a loss of roughly \$202,491. At some point in time, the second deed of trust  
5 was sold to Real Time Resolutions Inc., which accepted an offer \$3,000.00 for the second loan payoff.  
6 BAC Home Loan Servicing is a division of Bank of America, a federally insured lending institution.

7 After The Short Sales, Migdal Continued To Collect Rent And Funded HOA Payments

8 24. Bank records show that Migdal collected rent on both properties and sent checks to "Gary  
9 Piper" to cover expenses related to the properties.

10 25. I reviewed records from Migdal's account at Wells Fargo (WFB-3245). Those records  
11 show that Migdal received rent checks from individuals renting at 112 Walaka Street, #305 and #404,  
12 *after* the short sale transactions. The records show that an individual named Randy Katz paid rent  
13 checks for 112 Walaka #305 in August 2011 through October 2011. Each rent check was made payable  
14 to Mark Migdal for the amount of \$1,250. In addition to the rent payments in August 2011 Randy Katz  
15 also wrote a check payable to Mark Migdal for \$1,250 and noted in the memo, "Deposit #305 Maui".  
16 Bank records also show Migdal sent a check to Randy Katz in April 2012 which referenced security and  
17 cleaning deposit for 112 Walaka #305. In July 2013 Christine W. McCoy sent Migdal a check for  
18 \$1,840.38 for 112 Walaka #305, for rent and utilities.

19 26. Wells Fargo Bank records also show Migdal received checks from Nancy and Roger  
20 Leahy in July 2012 for \$1,844.72, in March 2013 for \$1,816.76, and in July 2014 for \$1,916.38. All  
21 checks were made payable to Mark Migdal, one check referenced Walaka #404 and the other two noted  
22 #404 and listed rent and utilities.

23 27. Records from Gary Piper's Chase-4215 account show a pattern of \$1,000 check deposits  
24 from Mark Migdal that precede monthly Home Owner's Association ("HOA") payments. The checks  
25 from Migdal were written between October 4, 2010 and November 18, 2015 and referenced 112 Walaka  
26 #305 and #404. Piper deposited the checks in his account Chase-4215 and then made HOA payments for  
27 Walaka #305 and #404. The HOA payments were approximately \$461.11 for each property.  
28

Using The Name Gary Piper, MORGOVSKY Transferred The Condominiums To Migdal's Wife Using Her Maiden Name

28. After holding the properties in his name for approximately six years, "Gary Piper" transferred the properties to Migdal's wife, who used her maiden name, Anetta Kalk, in the transaction.

29. On or about April 7, 2016, Gary Piper transferred his ownership of 112 Walaka Street, #404 to Anetta Kalk, as "a married women as tenant in severalty." Anetta Kalk is married to Mark Migdal. Further review of escrow and title documents I obtained from First American Title Company (FATC) show the following:

- a) FATC Receipt of Deposit Statement listing a deposit from Anetta Kalk in the amount of \$1,746.83.
- b) FATC Settlement Statement listing the Buyer as Anetta Kalk and the Seller Gary William Piper. Total cost of \$228,000, which represents satisfaction of an unsecured note in the amount of \$228,000.
- c) FATC Escrow Instructions note – *"There will be no funds exchanged between the parties in connection with this escrow transaction. Said consideration amount will be reimbursed to the buyer in full satisfaction of an unsecured note between the parties."*
- d) FATC Certification for No Information Reporting on the Sale or Exchange of a Principle Residence, signed and dated March 30, 2016, – *"I owned and use the residence as my principle residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange."*

30. On or about, April 7, 2016, Gary Piper transferred his ownership of 112 Walaka Street, #305 to Anetta Kalk, as "a married woman as tenant is severalty." Further review of escrow and title documents obtained by First American Title Company (FATC) show the following:


- a) FATC Receipt of Deposit Statement listing a deposit from Anetta Kalk in the amount of \$1,715.33.
- b) FATC Settlement Statement listing the Buyer as Anetta Kalk and the Seller Gary William Piper. Total cost to be \$207,000 which represents satisfaction of an unsecured note in the amount of \$207,000.

c) FATC Certification for Exemption from Withholding of Tax on the Disposition of  
Hawaii Real Property notes: item#2 – Brief description of the transfer – *“Property is sold  
at the same price as it was purchased to seller a prom note.”*

31. Four months later, in July 2016, Anetta Kalk transferred both properties, using warranty  
deeds in exchange for \$10.00 (ten), to Mark Migdal and Anetta Kalk Migdal, Trustees in the Migdal  
2016 Living Trust. I obtained these warranty deeds from the State of Hawaii Bureau of Conveyances,  
Documents Numbers A60470900 and A60470903.

Conclusion

32. Based on the foregoing, there is probable cause that NAUM MORGOVSKY violated  
Title 18, United States Code, Sections 1344 and 2.

  
\_\_\_\_\_  
NATALIE S. REZAI-ZADEH  
Special Agent, Federal Bureau of Investigation

Subscribed and sworn before me  
This 24 day of August, 2016

  
\_\_\_\_\_  
THE HONORABLE JOSEPH C. SPERO  
United States Magistrate Judge